

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ERIC W. BIGGERS,

*Plaintiff*

VS.

BP PRODUCTS NORTH AMERICA  
INC., BP AMERICA INC. AND INEOS  
STYROLUTION AMERICA, LLC.

*Defendants.*

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CIVIL ACTION NO. \_\_\_\_\_

**NOTICE OF REMOVAL OF CIVIL ACTION**

Defendants BP Products North America Inc., and BP America Inc. (collectively, “BP”) and INEOS Styrolution America LLC (“INEOS”), named defendants in a civil action now pending in Texas state court, file this Notice of Removal of the action brought against them by Plaintiff Eric W. Biggers, the named Plaintiff in the civil action pending in state court. The grounds in support of this Notice of Removal are as follows:

1. **The State Court Action.** Plaintiff filed suit against BP and INEOS on or about May 31, 2022, in the 133rd Judicial District Court of Harris County, Texas, under Cause No. 2022-32516 (“the State Court Action”).<sup>1</sup> On June 3, 2022, BP and INEOS were served with the citations and a copy of the initial pleading in the State Court Action.<sup>2</sup> In the State Court Action, Plaintiff seeks to recover damages for injuries he allegedly suffered from an alleged release of

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<sup>1</sup> A true and correct copy of the Plaintiff’s Original Petition in the State Court Action is attached hereto as Exhibit A.

<sup>2</sup> A true and correct copy of the executed Citations for the two BP entities and the executed Citation for INEOS are attached hereto as Exhibits B, C and D.

styrene vapors from an industrial rail car owned by INEOS while on the premises of BP's Texas City Chemical Plant on July 18, 2020. In order to avoid the entry of a default judgment, BP and INEOS filed Original Answers in the State Court Action.<sup>3</sup>

2. The following pleadings, attached hereto, have been filed by the parties in the State Court Action:

Exhibit A	Plaintiff's Original Petition
Exhibit B	Copy of executed process for BP America Inc.
Exhibit C	Copy of executed process for BP Products North America Inc.
Exhibit D	Copy of executed process for INEOS Styrolution America LLC
Exhibit E	BP's Original Answer
Exhibit F	INEOS' Original Answer

3. These documents represent the entirety of all pleadings filed thus far in the State Court Action. A list of all counsel of record is attached hereto as Exhibit G. The docket sheet in the State Court Action is attached hereto as Exhibit H.

4. **This Notice is Timely Pursuant to 28 U.S.C. §1446(b).** This Notice of Removal of Civil Action is timely pursuant to 28 U.S.C. § 1446(b) because the State Court Action is being removed within the thirty (30) day period after BP and INEOS were served with a copy of the initial pleading.

5. **Original Federal Jurisdiction Exists Over the Petition Pursuant to Diversity Jurisdiction.** The State Court Action may be removed to this Court based on diversity. Plaintiff is a Texas resident. BP Products North America Inc. is a corporation organized under the laws of the state of Maryland and its principal place of business is in Illinois. Therefore, it is not a

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<sup>3</sup> A true and correct copy of BP's and INEOS' Original Answers are attached hereto as Exhibits E and F.

Texas citizen. BP America Inc. has been fraudulently or improperly joined in this action so its citizenship is not relevant for purposes of determining diversity jurisdiction. INEOS is a citizen of Germany. INEOS is a limited liability company formed under the laws of Delaware. For purposes of diversity, the citizenship of an LLC is determined by the citizenship of all of its members. *Harvey v. Grey Wolf Drilling*, 542 F.3d 1077, 1080-81 (5th Cir. 2008); *Soaring Wind Energy, L.L.C. v. Catic USA Inc.*, 946 F.3d 742, 750 (5th Cir. 2020). At the time of filing this action, the time of removal, and all times since, and currently, the members of INEOS, and thus INEOS itself, are and were citizens of Germany. INEOS' sole member is and was at all relevant times INEOS Styrolution US Holding LLC, a German citizen. INEOS Styrolution US Holding LLC's sole member is and was at all relevant times INEOS Styrolution Group GmbH, a German citizen incorporated under the laws of Germany with its principal place of business in Germany. Accordingly, INEOS is a citizen of Germany.

6. Because Plaintiff is a citizen of Texas, BP Products North America Inc. is a citizen of Illinois, BP America Inc. has been fraudulently and/or improperly joined, and INEOS is a citizen of Germany, there is complete diversity between the parties. See 28 U.S.C. §1332(a)(1).

7. **Notice Filed in the State Court.** Promptly after filing this Notice of Removal, written notice thereof will be given to Plaintiff and a copy of this Notice of Removal will be filed with the District Clerk of Harris County, Texas, as required by law.<sup>4</sup>

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<sup>4</sup> A true and correct copy of the Notice being filed with the District Court of Harris County, Texas is attached as Exhibit I.

**CONCLUSION**

BP and INEOS have complied with the procedural requirements of 28 U.S.C. § 1446(b). This Court has removal jurisdiction based on diversity jurisdiction. Accordingly, removal of this case is proper pursuant to 28 U.S.C. § 1441.

Respectfully submitted,

**HUNTON ANDREWS KURTH LLP**

By: s/ Thomas W. Taylor

Thomas W. Taylor  
State Bar No. 19723875  
Federal Bar No. 3906  
4200 JPMorgan Chase Tower  
600 Travis Street  
Houston, Texas 77002  
(713) 220-4200  
(713) 220-4285 (facsimile)  
[ttaylor@huntonak.com](mailto:ttaylor@huntonak.com)

**ATTORNEY-IN-CHARGE FOR DEFENDANTS  
BP CORPORATION NORTH AMERICA INC.  
AND BP EXPLORATION & PRODUCTION INC.**

**OF COUNSEL:**

**HUNTON ANDREWS KURTH LLP**

Jeffrey B. McClure  
State Bar No. 13428200  
Federal Bar No. 5128  
[jeffmcclure@huntonak.com](mailto:jeffmcclure@huntonak.com)  
Raymond G. Randle, Jr.  
State Bar No. 24004873  
Federal Bar No. 23155  
[rrandle@huntonak.com](mailto:rrandle@huntonak.com)  
4200 JPMorganChase Tower  
600 Travis Street  
Houston, Texas 77002  
(713) 220-4200  
(713) 220-4285 (facsimile)

**MILLS SHIRLEY L.L.P.**

By: /s/ Fred D. Raschke

Fred D. Raschke

State Bar No. 16551450

fraschke@millsshirley.com

Andy "Andres" Soto

State Bar No. 24071128

asoto@millsshirley.com

2228 Mechanic Street, Suite 400

Galveston, Texas 77550

Ph 409.763.2341 / Fax 866.674.7808

ATTORNEYS FOR DEFENDANT,  
INEOS Styrolution America LLC

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 1, 2022, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Southern District of Texas by using the CM/ECF system and that service will be accomplished by the CM/ECF system to all attorneys of record.

By: s/ Thomas W. Taylor

Thomas W. Taylor